



30 JUNE 2026

ARMED FORCES BILL 2026
HOUSE OF LORDS

CLAUSE	TITLE
DURATION OF ARMED FORCES ACT 2006	
1	Duration of Armed Forces Act 2006
ARMED FORCES COVENANT	
2	Armed forces covenant
DEFENCE HOUSING AND OTHER PROPERTY	
3	Defence housing and other property
PREVENTION ETC OF DRONES AND SIMILAR DEVICES	
4	Interference with uncrewed devices
PROTECTION FROM SEXUAL AND VIOLENT BEHAVIOUR, DOMESTIC ABUSE, STALKING AND HARASSMENT	
5	Sexual harm prevention orders and sexual risk orders
6	Service image deletion orders
7	Protection from domestic abuse and stalking
8	Service restraining orders: enforcement etc by civilian courts
9	Guidance issued to civilian police
10	Assessment etc of risks posed by certain offenders
SUPPORT FOR VICTIMS OF SERVICE OFFENCES	
11	Victims of service offences
12	Parliamentary Commissioner for Administration
INVESTIGATION, ARREST AND CHARGING	
13	Service policing protocol
14	Entry for purposes of obtaining evidence etc
15	Arrest and detention by civil authorities
16	Pre-charge custody
17	Time limit for charging certain offences
DUTIES AND POWERS OF COMMANDING OFFICERS	
18	Duty of commanding officers to report serious offences
19	Summary hearings: punishments available to commanding officers
20	Deprivation orders: punishments available to commanding officers
SERVICE COURTS	
21	Qualification for membership of the Court Martial
22	Power to impose post-charge conditions on persons not in service detention
23	Dismissal of charges
24	Hospital assessment and treatment in cases of mental disorder
25	Variation or rescission of activation orders by the Service Civilian Court
26	Guidance on exercise of criminal jurisdiction
27	Minor revisions of guidance on exercise of criminal jurisdiction
DRIVING DISQUALIFICATION	
28	Driving disqualification orders: reduced disqualification period
REHABILITATION OF OFFENDERS	
29	Rehabilitation periods
30	Exceptions for spent cautions when taking administrative action
ARMED FORCES COMMISSIONER	
31	Commissioner's functions in relation to Royal Fleet Auxiliary

RESERVE FORCES	
32	Transfers between regular and reserve forces
33	Call out for permanent service
34	Recall for service
35	Sections 33 and 34: consequential amendments
36	Sections 33 and 34: transitional classes
37	Punishment etc of offences of desertion or absence without leave
38	Reserve Forces and Cadets Association
PARLIAMENTARY CONTROL OF ARMED FORCES NUMBERS AND COMMITMENTS	
39	Parliamentary control of air forces numbers
40	Parliamentary control of reserve force numbers and commitments
VISITING FORCES	
41	Prohibition on sentences of death
42	Evidence of act being carried out in course of duty
MINISTRY OF DEFENCE POLICE	
43	Governance and administration of Ministry of Defence Police
44	Cross-border enforcement powers of Ministry of Defence Police
45	Property in possession of Ministry of Defence Police
MISCELLANEOUS PROVISIONS	
46	Detention etc of persons overseas in cases of mental disorder
47	Defence functions of the Oil and Pipelines Agency
48	Protection of military remains
49	Police and Criminal Evidence (Northern Ireland) Order 1989: updating
50	Coroners and Justice Act 2009: correcting amendment
GENERAL	
51	Interpretation
52	Financial provision
53	Extent in the United Kingdom
54	Extent in the Channel Islands, Isle of Man and British overseas territories
55	Commencement and transitional provision
56	Short title

Schedules (not clauses):

Schedule 1 – Defence Housing and other Property
Schedule 2 – Sexual Harm Prevention Orders and Sexual Risk Orders
Schedule 3 – Protection from Domestic Abuse and Stalking
Schedule 4 – AF Commissioner: Functions Relating to Royal Fleet Auxiliary
Schedule 5 – Call Out and Recall for Service: Transitional Classes
Schedule 6 – Reserve Forces and Cadets Association
Schedule 7 – Detention etc of Persons Overseas in Cases of Mental Disorder

MINISTRY OF DEFENCE MEMORANDUM ON THE ARMED FORCES BILL 2026 - AS
INTRODUCED IN THE HOUSE OF LORDS ON 23 JUNE 2026

INTRODUCTION

Each Armed Forces Bill is of constitutional significance, dating back to the 1688 Bill of Rights, and is a key component of the requirement for Parliamentary consent for the raising and keeping of a standing army (and by extension the Navy and Air Force) during peacetime. In modern times, this consent is given through the presentation of an Armed Forces Bill every five years. The primary purpose of this Bill is to renew the Armed Forces Act 2006 (itself last renewed by the Armed Forces Act 2021), but it also provides the Government with the opportunity to renew the contract between the Nation and those who serve, strengthen our security and improve the conditions of service by placing an emphasis on the welfare of our people.

Key measures in the Bill include extending the Armed Forces Covenant Legal Duty (implementing the 2024 Labour manifesto commitment to enshrine the Armed Forces Covenant fully in law), the establishment of the Defence Housing Service (a key deliverable of the recently announced Defence Housing Strategy), and a package of measures relating to the Service Justice System (SJS) - including measures that actively support the Government manifesto commitment of halving Violence Against Women and Girls in a decade.

CONTENTS OF THE BILL

DURATION OF ARMED FORCES ACT 2006

Clause 1 - Duration of Armed Forces Act 2006 (AFA06)

As with the three previous Armed Forces Acts, Armed Forces Bill 2026 contains the renewal provision (in clause 1) which substitutes a new section 382 to provide for the continuation of AFA06 for a further five years until the end of 2031 (and annually through continuation orders). It also repeals section 1 of the Armed Forces Act 2021 (AFA21), which inserted the current section 382 into AFA06 (with an expiry date of 2026).

As AFA06 provides nearly all the provisions for the existence of the SJS (the legal and disciplinary framework for the Armed Forces), the policy objective is to ensure that AFA06 does not lapse at the end of 2026, by providing for its renewal for a further five years until the end of 2031.

ARMED FORCES COVENANT

Clause 2 - Armed Forces Covenant

The primary objective of the proposed extension to the Armed Forces Covenant Legal Duty is to ensure that UK Government departments, Devolved Governments, local authorities in England, Scotland and Wales and education and health bodies are legally required to consider the unique needs of serving personnel, veterans, and their families including the bereaved. By embedding these considerations into policy areas relevant to the Armed Forces community, the Government aims to prevent disadvantage arising from the unique challenges of military service. This includes raising awareness of the unique obligations and sacrifices faced by the Armed Forces community and ensuring that these are appropriately reflected in decision and policy making processes. The extension does not apply to local councils in Northern Ireland as they do not exercise functions within the policy areas in scope. This does not prevent them, however, from demonstrating their support for the Armed Forces community through signing a Covenant pledge.

The effects of this extension are to provide fair and consistent access to public services for the Armed Forces community, improving their overall wellbeing and long-term security. The Covenant also promotes a whole-of-society approach, aiding work to improve recruitment and retention and thereby operational effectiveness. By strengthening collaboration across government, the extension seeks to deliver meaningful and tangible support to those who serve or have served, as well as their families. The Covenant Legal Duty will therefore be expanded to cover 12 key policy areas comprising: childcare, education and training, employment, health and social care, housing, social security benefits, personal taxation, criminal justice, transport, pensions, immigration and citizenship and Armed Forces compensation.

Implementation of the Duty will be supported by statutory guidance, which is currently being developed with stakeholders and subject matter experts from across government. The guidance will provide a clear framework to support public bodies in meeting their obligations under the Duty¹.

¹ A draft version of the statutory guidance has been published and is open for stakeholder comment until 3rd July. <https://www.armedforcescovenant.gov.uk/review-the-draft-statutory-guidance-and-share-your-feedback/>

DEFENCE HOUSING AND OTHER PROPERTY

Clause 3 - Defence housing and other property

Schedule 1 (Part 1 and 2) - Defence Housing and other property

The new Defence Housing Strategy², which was published in November 2025, is divided into three pillars. The first pillar concerns a ten-year plan to deliver a generational renewal of Defence Housing. The second pillar is for the establishment of a new independent body for Defence Housing which has the needs of Service Personnel and their families at its heart and takes a “Forces First” approach to its work. The third pillar is to ensure Defence Housing and Defence land delivers for the nation.

The Defence Housing Strategy follows on from the Defence Select Committee report published in December 2024, and the reacquisition of the service family estate in January 2025.

This clause enables the delivery of the Defence Housing Strategy by providing the legislative framework for the establishment of a new non-departmental public body, the Defence Housing Service. The functions of the new body will include the supply and quality of defence housing for service persons and their families, and the development of land used or formerly used for military purposes, and it will have new powers conferred upon it to fulfil this purpose.

The Defence Housing Service will be a critical part of the change needed to drive the renewal of Defence family accommodation after years of neglect, and to enable the delivery of more homes on Defence development land.

²https://assets.publishing.service.gov.uk/media/690878cdef26c341988b2558/The_Defence_Housing_Strategy_2025.pdf

PREVENTION ETC OF DRONES AND SIMILAR DEVICES

Clause 4 - Interference with uncrewed devices

Ongoing conflicts around the world have shown the increasing use of uncrewed devices, also commonly referred to as drones, across a variety of threat areas. In the homeland, drone-related offences have the potential to disrupt MOD facilities and pose a substantial risk to the safety and the security of critical national infrastructure. Safeguarding against these threats is paramount to upholding national security interests.

Defence personnel are not authorised currently to act against the threats posed by uncrewed devices. Through the Police Act 1997, only Police constabularies, HM Prison Services, and certain other named bodies have the authority to use certain types of equipment that would interfere with the operation of a drone to detect and prevent offences committed using those devices.

While Ministry of Defence Police (MDP) officers can obtain authorisations to interfere with the operation of drones, not all Defence areas will have a permanent MDP presence, and Service Police can only routinely authorise actions in response to persons subject to service law.

For a small number of incidents, Home Office Police Forces have provided Defence with support, however the number of incidents targeting Defence is rising. Defence now requires the ability to deploy its own immediate response to ensure the level of security required to mitigate the threat. This measure will therefore provide the necessary powers for Defence personnel to authorise the use of approved equipment to detect and prevent relevant offences using drones.

A Defence-specific authorisation process will enable Defence to ‘future proof’ developments in technology and create a framework through which developing technology may be rapidly introduced to support the security of critical national infrastructure. Given the rapidly evolving technology associated with drones an ability to deploy an agile response is an essential component of the proposed legislative framework.

Defence will also be required to have an authorisation process for the power to be exercised. The regime will create a similar structure to that used by the Home Office Police Forces by requiring authorisation at a very senior level (the equivalent of a Chief Constable). The process will include accountability and review measures to ensure that authorisation is only given when it is appropriate in the interests of national security.

PROTECTION FROM SEXUAL AND VIOLENT BEHAVIOUR, DOMESTIC ABUSE, STALKING AND HARASSMENT

Clause 5 - Sexual harm prevention orders and sexual risk orders

Schedule 2 — Sexual harm prevention orders and sexual risk orders

Clause 6 – Service image deletion orders

Clause 7 - Protection from domestic abuse and stalking

Schedule 3 (Parts 1 – 8) - Protection from domestic abuse and stalking

Clause 8 - Service restraining orders: enforcement etc by civilian courts

The introduction of these protection measures will grant the SJS the powers to impose interim and full protection orders and notices to protect victims in the same way as in the civilian Criminal Justice System (CJS). This will closer align the justice systems and ensure enduring protection for victims, particularly in instances where an offender may be discharged by the Armed Forces. In addition, they will reduce the burden on the CJS, as it will enable an alternative avenue for these orders to be heard and made, which will be in the service courts as opposed to the civilian courts.

To protect victims from harm related to sexual offending, stalking and harassment, or domestic abuse, a range of interim and full protection orders will be created for or extended to the SJS. These measures will grant the service courts the powers to impose Stalking Protection Orders (SPOs), Sexual Risk Orders (SROs) and Domestic Abuse Protection Orders and Notices (DAPOs/DAPNs).

Where a protection order is made, the Bill provides for those orders to transition into the civilian CJS once an individual leaves service. These measures provide the service courts with the powers to impose a protection order for service personnel based anywhere in the world and can be recognised and enforced across the U.K including in Scotland and Northern Ireland, providing enduring protection for victim-survivors. Where an individual subject to a service stalking protection order leaves service and resides in Northern Ireland, that order is recognised and managed within the Northern Ireland stalking protection framework.

In addition, the service protection orders can be made by a service court, in relation to a service offence, even if the person has left the Armed Forces.

While the Service courts can already impose Sexual Harm Prevention Orders (SHPOs) the service police cannot currently apply for a SHPO or a Sexual Risk Order; and Service Restraining Orders (Service ROs) made in the service courts cannot currently be enforced in the CJS. The Bill will rectify these anomalies. Service ROs will also become enforceable as equivalent orders in Scotland and in Northern Ireland, and arrangements can be made for enforcement to take place in England. Closing these gaps will ensure victims have access to wrap-around protection across the UK.

The Bill also creates Service image deletion orders; these further strengthen the framework to protect victims, by ensuring that those who create or share intimate images with intent to cause harm can be held fully accountable in the Service Justice System. The new Service deletion order will enable the Service courts to require offenders to delete and destroy any images or films in their possession or control that are connected with specified offences and depict a person in an intimate state. It reflects the Government's clear position that it is not enough to address distribution alone - the harm persists where offenders retain such images.

Clause 9 - Guidance issued to civilian police

This will impose a requirement on the Service police to have regard to existing statutory guidance on the disclosure of police information for the purposes of preventing domestic abuse, sexual offending and stalking. The measure seeks to align the SJS with section 77 of the Domestic Abuse Act 2021, and Clauses 83 and 100 of the Home Office Crime and Policing Bill (in its final stages of the Parliamentary process) which imposes a similar duty on chief officers of police. It will also rectify the omission of the Ministry of Defence Police (MDP) from the list of police forces that are required to have due regard for the Domestic Violence Disclosure Scheme (section 77 of the Domestic Abuse Act 2021).

Clause 10 - Assessment etc of risks posed by certain offenders

Serious violent and sexual offenders sentenced to at least 12 months' custody by the service courts can currently only be supervised under Multi-Agency Public Protection Arrangements (MAPPA) on a discretionary basis rather than automatically, following a successful application to the relevant MAPPA Co-ordination Unit.

This clause will ensure that these offenders will be automatically managed under MAPPA when released on licence into the community, in line with those sentenced in civilian criminal courts. This means that police, prisons and probation, along with other agencies, must share information to assess and manage the risk the offender poses when they are released from prison on licence. This protection would be equivalent to that afforded to the public where an offender has been sentenced in the same way for an identical offence by the CJS.

SUPPORT FOR VICTIMS OF SERVICE OFFENCES

Clause 11 - Victims of service offences

The current Code of Practice is set out in secondary legislation - The Criminal Justice (Armed Forces Code of Practice for Victims of Crime) Regulations 2015 - and was made using powers derived from the European Communities Act 1972; it identifies the services and support to be provided to victims who are dealt with in the SJS. Since 2015, a number of improvements have been made in the SJS, some of which are not reflected in the legislation, but have been implemented through policy such as the creation of the Victim and Witness Care Unit.

Furthermore, the 2015 Regulations apply to victims of offences that either occurred or are being prosecuted in the EU. Now that the UK is no longer an EU member state, the Code is of limited practical effect insofar as it no longer applies to victims of offences committed or prosecuted in the UK (although we continue to provide the same level of support to victims, but through policy).

The clause will address these issues, and align with the statutory rights already guaranteed to victims in England and Wales in s2 of the Victims and Prisoners Act 2024, by revoking the 2015 Regulations and placing a duty on the Secretary of State for Defence to issue a new Code of Practice for victims in the SJS. It sets out the key principles that must be reflected in the services provided for in the Victims' Code to align with the statutory rights guaranteed to victims of crime in England and Wales, and gives the Secretary of State a power to make regulations setting out further matters which the Victims' Code must reflect. It also includes a new procedure for making minor amendments to the Victims' Code.

This clause also replicates section 2 of the Victims and Prisoners Act 2024, by imposing a duty on the Secretary of State for Defence to issue guidance about specified victim support roles, specifically the Independent Sexual Violence Advisor (ISVA) and Independent Domestic Violence Advisor (IDVA), in relation to offences dealt with in the SJS; IDVAs and ISVAs play a crucial role in supporting victims of domestic and sexual abuse to navigate support services and the SJS. This will ensure that ISVAs and IDVAs in the SJS are subject to similar guidance and standards as their equivalents in the CJS.

The guidance will improve clarity and awareness of these roles and encourage greater consistency by setting out minimum expectations and best practice in relation to these roles and how they can support specific needs and vulnerabilities of victims.

Clause 12 - Parliamentary Commissioner for Administration

When making a complaint related to their experience of care as set out in the Armed Forces Code of Practice, civilian victims in the SJS currently have no easy means of escalation should they be unhappy with the outcome of a service provider's internal complaints process. If they wish to take this issue further by escalating to the Parliamentary Commissioner, they must go through their MP rather than contacting the Parliamentary Commissioner directly. Victims in the SJS who are members of the Armed Forces can also raise the matter with their MP for onward escalation to the Parliamentary Commissioner, however, they also have the option to escalate their complaint to the Service Complaints Ombudsman (or the Armed Forces Commissioner when in place).

Allowing all SJS victims to raise their complaints to the Parliamentary Commissioner directly, rather than via their MP, will provide a direct route for complaint resolution which is comparable with that offered to victims in the CJS.

INVESTIGATION, ARREST AND CHARGING

Clause 13 - Service policing protocol

Unlike the Policing Protocol Order 2023, which articulates the operational independence and governance structures within civilian policing in England and Wales, there is currently no equivalent protocol setting out the independence of the Service police (the three Service police forces, and the tri-service serious crime unit known as Defence Serious Crime Command) with regards to investigations. It is recognised that the Civilian Policing Protocol is an effective way to delineate functions and improve ways of working.

While Section 115A of AFA 2006 provides that the Provost Marshal of a Service police force has a duty to seek to ensure that its investigations are free from improper interference, there is no explicit recognition that the investigations of the Service police are independent of the chain of command and all personnel within the MOD. This clause therefore provides the Secretary of State with a power to issue an internal, non-statutory protocol, which will require everyone in Defence to have regard to the protocol in any interaction that they have with Service police investigations. It will set out how members of Defence can support such investigations and improve the working relationships between key stakeholders in support of service policing. The protocol will also provide clarity in respect of the roles and functions of the Defence policing governance structure.

Clause 14 - Entry for purposes of obtaining evidence etc

Anecdotal evidence provided by the Service Police suggest that the Service police's inability to search premises that fall outside the scope of "relevant residential premises" has negatively impacted investigations. Premises have not been able to be searched under a Judge Advocate search warrant as they are not classed as relevant residential premises, being places individuals frequent but do not reside in, for example. This is also the case for searches for electronically tracked stolen goods, which can be searched for without a warrant (where relevant requirements are met) under new powers provided to Service Police through the Crime and Policing Act 2026. By only having powers to search relevant residential premises, this risks relevant evidence not being seized, which can ultimately lead to there being insufficient evidence to convict.

To date, this issue regarding Judge Advocates warrants has been worked around by relying on consent to search the premises, and these arrangements are sub-optimal, as consent can be withdrawn at any time. This clause resolves this issue by enabling the Service police to apply for a Judge Advocate's warrant, where the relevant requirements are met, to search any premises occupied or controlled by a person subject to service law, rather than just relevant residential premises. This clause also enables those premises to be searched, without a warrant, for electronically tracked stolen goods, where relevant requirements are met. In doing so, it will closer align the Service police and Judge Advocate powers with those of the civilian police forces of England and Wales.

Clause 15 - Arrest and detention by civil authorities

The clause grants civilian police (UK and British Overseas Territories, including Gibraltar) the power to arrest without warrant individuals subject to service law who are reasonably suspected of committing an offence under section 12 of AFA06 (disobedience to lawful commands). This closes a gap which currently limits enforcement capabilities, particularly in safeguarding vulnerable groups where lawful commands have been put in place to protect victims; for example, where such commands serve a purpose such as restricting movement or contacting victims or witnesses.

Clause 16 - Pre-charge custody

The clause creates a power for the Provost Marshals (and their suitably trained delegated officers within the Service police) to authorise pre-charge custody for investigations into more serious offences. Under the current arrangements, only the suspect's Commanding Officer (CO) can authorise pre-charge custody after an arrest, this can create delays in the investigation process, prevent the preservation of evidence or risk further harm to victims and witnesses or to the suspect themselves.

The clause will apply to arrests for more serious offences which are defined as those in Schedule 2 of AFA06, such as murder, serious sexual offences, or grievous bodily harm, and also to offences that would attract a sentence of over two years' imprisonment in the civilian criminal justice system, such as drugs offences or financial crime.

It will also apply to offences that are considered prescribed circumstances as set out in regulation 3 of the Armed Forces (Part 5 of the Armed Forces Act 2006) Regulations 2009, such as repeated assaults or serious injury by a superior while on duty.

The relevant Provost Marshal must notify the suspect's CO within six hours of the arrest. The other existing safeguards and 12-hour review periods will also apply; any extension beyond the 48-hour time limit must be approved by a Judge Advocate.

COs will retain their powers to authorise pre-charge custody for serious offences in exceptional circumstances (ensuring operational flexibility), but they must notify the Provost Marshal for Serious Crime and the Provost Marshal of the service police force for the service of which the suspect is a member.

Clause 17 - Time limit for charging certain offences

This clause implements Recommendation 35 from the Sir Richard Henriques Review 2021³ for a time limit for charging certain offences under section 42 AFA06, to reproduce the effect of the 6-month time limit in section 127, Magistrates' Court Act 1980. This will give impetus to Commanding Officers, the Court Martial, and the Service Civilian Court (SCC), to ensure that minor offences are charged and tried as soon as reasonably practicable after the alleged offence has been committed.

Due to the nature of service life, however, a rigid 6-month time limit will not always be practical, and some flexibility is required within the SJS. Therefore, the clause enables the Director of Service Prosecutions (DSP) to waive the 6-month time limit, where it is found that the interests of justice test is met.

³ [Sir Richard Henriques' Review Report on strengthening the Service Justice System - GOV.UK](#)

DUTIES AND POWERS OF COMMANDING OFFICERS

Clause 18 - Duty of commanding officers to report serious offences

The policy objective of this clause is to increase the scope of Section 113 of AFA06, which currently requires COs duty to report allegations of serious offences relating to people under their own command. The amendment will ensure that *any* CO who becomes aware of information that would cause a reasonable person to suspect that a serious offence has been committed by *any* service person, is required to refer the matter promptly to the Service police. This will provide greater consistency in the reporting of allegations of serious offences across the Armed Forces, ensuring that all such allegations are reported to and investigated by the Service police. It will also strengthen accountability and transparency within the SJS, enhance protection and confidence for victims and reinforce public trust in the integrity and fairness of military discipline and investigative processes.

Clause 19 - Summary hearings: punishments available to commanding officers

Service persons at OR4 rank in the Army (corporal) and Royal Air Force Regiment (corporal) cannot receive a punishment of service detention at summary hearing, whereas service persons at this rank in the Royal Navy (leading hand), Royal Marines (corporal) and Royal Air Force (corporal) can. As military capabilities are becoming more integrated, this increases the likelihood that OR4s from across the single Services will be jointly deployed or even in joint units. As a result, it is more likely that COs may face situations in which OR4s from different Services are defendants at summary hearing in a single case or in linked cases, and they might have to impose sentences of service detention. The commanding officer may therefore have to refer the case to the DSP to consider directing a charge at Court Martial, rather than retaining the case for summary hearing.

This clause would allow COs at summary hearing, with extended powers, to impose a punishment of service detention on OR4 ranks in the Army or Royal Air Force Regiment. This would make COs' sentencing powers more consistent across the single Services. It would also reduce the risk of delay and unnecessary cost to the SJS through trials being heard at the Court Marial rather than being retained for summary hearing.

Clause 20 - Deprivation orders: punishments available to commanding officers

Deprivation orders were introduced in the SJS by AFA21, however, they cannot be imposed alongside certain sentences in summary hearings; they can be imposed when a fine or a minor punishment (such as an admonition) is also imposed at a summary hearing, but not when a more serious punishment - Service detention, forfeiture of seniority or reduction in rank or disrating - can be imposed.

This clause means that when more serious punishments are imposed by COs, they could also deprive the offender of any rights in property, lawfully seized from them or in their possession when apprehended or charged, that has been used to commit an offence e.g. a knife or tools. This would make the position similar to that in the magistrates' courts in the CJS, for example, when dealing with an offence of criminal damage.

SERVICE COURTS

Clause 21 - Qualification for membership of the Court Martial

The AFA 21 reduced the qualifying rank for NCOs able to sit on a Court Martial Board from an OR 8/9 (equivalent to a warrant officer first and second class respectively in the army), to an OR 7 (equivalent to the rank of colour sergeant in the army). However, due to a technical oversight, not all the necessary legislative changes were made - there remain references to warrant officers or an OR 8/9 equivalent rank in the legislation, when in fact the reference should be to an OR 7 equivalent rank.

The clause simply removes from legislation superfluous and incorrect references to warrant officers in section 156 and replaces them with the correct reference to OR 7. The policy position in terms of eligibility for Other Ranks to serve on Court Martial Boards remains unchanged from that established in the Armed Forces Act 2021.

Clause 22 - Power to impose post-charge conditions on persons not in service detention

Judge Advocates in the SJS can only impose post-charge requirements that put in place conditions on behaviours and movements if the defendant is in service custody. This creates operational challenges when risks - such as absconding, reoffending, or interfering with witnesses - could arise after release when conditions are not put in place.

This clause provides Judge Advocates with the power to impose conditions post-charge when the defendant is not in custody. This will allow courts to respond to emerging risks during proceedings, such as contact with victims or risk of flight, and improve safeguards for victims. It also creates a service offence for failing to attend a hearing concerning a judge-advocate imposed condition, without reasonable excuse, with penalties aligned to AFA06.

Clause 23 - Dismissal of charges

In the CJS, where a charge is dismissed, paragraph 2(6) of Schedule 3 of the Crime and Disorder Act 1998 provides that no further proceedings may be brought on the dismissed charge (or charges), except by means of the preferment of a voluntary bill of indictment. This is an exceptional procedure only available where it is in the “interests of justice”; however, there is no equivalent of a voluntary bill procedure in the SJS or any route for the prosecution to reinstitute proceedings.

This clause will introduce an equivalent power within the SJS, which will align the SJS with the CJS, as well as balancing the rights of the accused with the public interest in prosecuting crimes, where it is in the interests of justice to do so.

Clause 24 - Hospital assessment and treatment in cases of mental disorder

This clause will grant the SJS, on the advice of medical experts, to make a Hospital Order for a defendant. This means that a defendant who is suffering from a diagnosed mental health disorder can be sent to a secure medical facility for treatment as part of their sentence, or at any other time in the Judicial process. This ensures the safety of the public and ensures the defendant receives the appropriate sentence and care.

Clause 25 - Variation or rescission of activation orders by the Service Civilian Court

The AFA21 introduced provisions to provide powers to vary or rescind punishments or activation orders made in error (known as “slip rules”) in Summary Hearings, the Summary Appeal Court and the SCC, equivalent to those powers in the Court Martial. However, the provision for the SCC referenced the wrong power in relation to varying activation orders, which has prevented the slip rule being fully implemented in the SCC (via secondary legislation) as originally intended.

This clause replaces the incorrect power - s.193 of AFA06 (Activation by CO of suspended sentence of service detention) in s.288(3)(ea) of AFA06, with the correct power - paragraph 13 of Schedule 16 to the Sentencing Act 2020.

Clause 26 - Guidance on exercise of criminal jurisdiction

Clause 27 – Minor revisions of guidance on exercise of criminal jurisdiction

Civilian and Service prosecutors can decide in which jurisdiction an offence allegedly committed in the UK by a Service person should be prosecuted, i.e. the SJS or a UK CJS. Under statutory protocols, prosecutors should seek assurance from the police that the victim has been asked whether they have any views on jurisdiction.

However, where civilian police make initial contact with the victim, they are unlikely to seek their views on jurisdiction in all cases. Where the victim's views are sought, those views may not be sought at the right time, and victims may not be provided with sufficient information (by civilian or Service police) about the similarities and differences between the Service and civilian justice systems to help them indicate an informed preference.

Clause 26 gives the Secretary of State for Defence a power to issue statutory guidance on how to obtain an informed view from the victim on their preferred jurisdiction where an offence has been committed in the UK. This guidance must address the need to ensure information sufficient to explain the similarities and differences between the jurisdictions is given in a timely, objective and impartial manner and in a way that takes into account the particular circumstances of the offence and the needs of the victim. The overall policy intent is that case-by-case decision making on jurisdiction by prosecutors must be done in a way that promotes fair and efficient justice.

Clause 27 disapplies the consultation requirements under section 320A(7), 320B(8) and 320C(8) of AFA06 if revisions to the protocol are considered to be insubstantial by the Director of Service Prosecutions acting jointly with: the Director of Public Prosecutions, the Lord Advocate or the Director of Public Prosecutions for Northern Ireland.

DRIVING DISQUALIFICATION

Clause 28 - Driving disqualification orders: reduced disqualification period

In the CJS, a magistrate may offer a driving course to an offender as an option to reduce the period of driving disqualification, as set out at Sections 34A-C of the Road Traffic Offenders Act 1988. The courses may be conducted online via secure link at a designated court or through physical attendance to a centre with a recognised provider. While the Court Martial is empowered to make a driving disqualification order against an offender in proceedings for a service offence, there currently exists no legal mechanism for the Court Martial to reduce that period of disqualification from driving where the offender undertakes an approved course.

This clause corrects this situation by reproducing the effect of Sections 34A to 34C of the Road Traffic Offenders Act 1988 for the Court Martial and the SCC. This will ensure that there is no disparity between offenders in the service courts, and offenders in the CJS.

REHABILITATION OF OFFENDERS

Clause 29 - Rehabilitation periods

The Service sentences of: Reduction in rank or disrating; Forfeiture of a specified term of seniority, or all seniority; and, Service supervision and punishment orders, all serve a useful purpose in punishing Service personnel. However, these sentences are made less effective by having no rehabilitation period. This means that the single Services do not have an opportunity to consider whether administrative action should be taken against a serving person because the convictions are considered immediately 'spent'. Administrative action includes assessing whether the nature of the conviction means that the individual is unsuitable for life in the Service or whether they are suitable for promotion during the period of rehabilitation.

This clause therefore establishes rehabilitation periods of 12 months for these sentences, harmonising them with those for other Service sentences. It will also align the rehabilitation periods in Scotland with those in England and Wales (the required amendments relate to differences in terminology).

This will preserve the intended disciplinary effect with military administrative processes and maintain operational effectiveness and the welfare and safety of others in the Armed Forces.

Clause 30 - Exceptions for spent cautions when taking administrative action

The Rehabilitation of Offenders Act 1974 (ROA) provides a regime under which most convictions are considered 'spent' after a certain period of time, as determined by the sentence imposed. Some convictions are never spent, for example a custodial sentence of over four years, whilst others are spent immediately, such as simple cautions. The effect of the ROA in respect of employment, is that spent convictions need not be disclosed to employers and it is an offence for employers to ask an individual about such convictions or take action against them as a result.

Some roles are exempt from this within the Armed Forces, this includes medical professionals, dentists, nurses, police, and lawyers. If applying for or employed in one of these roles, the individual must declare all entries, spent or otherwise as detailed in the ROA Exceptions Order 1975, as amended.

Currently this is not the case for all other Armed Forces personnel and, as we continue to professionalise the Armed Forces and rebalance the demographic representation, this approach is increasingly inappropriate.

The clause will therefore enable the Armed Forces to consider taking administrative action against serving service personnel who receive a spent caution in England & Wales or a spent alternative to prosecution in Scotland during the time they were a member of the Armed Forces. The ROA regime in Northern Ireland does not prevent the Armed Forces from taking administrative action against an individual who has a spent caution in Northern Ireland, if the individual discloses the spent caution or the chain of command otherwise becomes aware of its existence. This will enable the Armed Forces to maintain the highest standards, ensuring that every case is addressed appropriately.

ARMED FORCES COMMISSIONER

Clause 31 - Commissioner's functions in relation to Royal Fleet Auxiliary

Schedule 4 (Parts 1 and 2) - Armed Forces Commissioner: functions relating to Royal Fleet Auxiliary

While members of the Royal Fleet Auxiliary (RFA) are civilians, they are a uniformed fleet of the MOD that provides logistical and operational support to the Royal Navy. They are deployed on military operations around the world as an integral part of the Royal Navy's frontline capability, often facing the same risks and conditions as other Service personnel. As such, RFA service is considered equivalent to service in the Armed Forces for the purposes of veteran status. This creates a distinct welfare profile where the Armed Forces Commissioner (AFC) can help ensure these unique challenges are recognised.

This clause extends the AFC's remit to cover members of the RFA, noting that members of the RFA are not routinely subject to Service Law and are not members of the Armed Forces. It includes members of the RFA but excludes RFA family members and any possible interpretation to the wider MOD civilian workforce. Unlike Service personnel, members of the RFA have full protections under UK Employment Law including Trade Union Representation. The extension of the AFC's remit therefore precludes interventions or conflict in the existing grievance and legal processes, and avoids interference with matters where the Trade Unions are acting on behalf of their members either individually or collectively. It will, however, enable the AFC to promote welfare issues for the RFA and undertake thematic investigations into issues that affect members of the RFA, with respect to facilities and services for which the MOD is directly or indirectly responsible.

The clause also addresses the absence of matters relating to Coroner's Inquests in the limitations placed upon the AFC.

RESERVE FORCES

Clause 32 - Transfers between regular and reserve forces

This clause amends elements of AFA06 and the Reserves Forces Act 1996 (RFA96) to ensure that Service personnel wanting to transfer from the Regular Forces to the Reserve Forces (both Volunteer and Regular), and vice versa, do not have to leave and rejoin but can seamlessly transfer between the two Forces.

Clause 33 - Call out for permanent service

Clause 34 - Recall for service

Clause 35 - Sections 33 and 34: consequential amendments

Clause 36 - Sections 33 and 34: transitional classes

Schedule 5 - Call out and recall for service: transitional classes

The utilisation and mobilisation of the UK's Reserve Forces is governed by the RFA 96. The MOD keeps this legislation and its subordinate regulations under constant review on behalf of and working with the Military Commands, to ensure that it remains fit for purpose. The Reserve Forces 2030 review, the Haythornthwaite Review of Armed Forces Incentivisation, and the recent Strategic Defence Review, have all brought into sharp focus the fact that RFA96, which reflects a post-cold war, peace-time stance, needs modernising to reflect the MOD's current and planned future approach to warfighting and homeland Defence. These clauses are firmly in step with our NATO allies who, in light of the wider geopolitical situation, have already made similar changes to ensure their readiness to respond to any threat.

Accordingly, these clauses amend RFA96 to:

- Disapply aggregate service relevant for recall in exceptional circumstances. This is to ensure that, if needed, Defence can call on some of the most experienced volunteer reservists in a transition to war scenario, even if this would mean they exceeded the expected maximum call out duration.

- Introduce a liability for recall to the Regular Service for non-officers who belong to the Part Time Volunteer Reserve (PTVR). Officers belonging to the PTVR are already subject to this liability.
- Allow the recall of Reserve personnel for “War Preparations” rather than, as now, in the event of “imminent national danger, national emergency, or an attack on the UK”.
- Increase the age limit for recall for non-officers from 55 to 65, and remove the current maximum duration of recall liability so that all ex-Service people retain a liability up to the age of 65.

Clause 37 - Punishment etc of offences of desertion or absence without leave

This clause corrects an anomaly in section 98 of the RFA96, to ensure that individuals called out under sections 65 and 66, can be convicted and punished for the offences of desertion or absence without leave.

Clause 38 - Reserve Forces and Cadets Association

Schedule 6 (Parts 1-3) - Reserve Forces and Cadets Association

In 2019, the MOD published the review of the Reserve Forces and Cadets Associations (RFCAs) (known as the ‘Sullivan review’ after its author). The review examined the need for the RFCAs, the appropriateness of their delivery model and the effectiveness of their governance and management, and made 80 recommendations for change, including regularising and streamlining the Council and the 13 RFCAs into a non-departmental public body (NDPB). A National Audit Office review of the MOD’s oversight of the RFCAs in 2025, and a subsequent Public Accounts Committee (PAC) hearing on 16 June 2025 reinforced the justification for the NDPB.

The clause creates the recommended NDPB and abolishes the 13 associations and the Council of Reserve Forces’ and Cadets’ Associations. In doing so, it will ensure clearer governance structures and address the financial, legal, safeguarding and estate safety risks currently being carried by both MOD and the RFCAs.

PARLIAMENTARY CONTROL OF ARMED FORCES NUMBERS AND COMMITMENTS

Clause 39 - Parliamentary control of air forces numbers

Clause 40 - Parliamentary control of reserve force numbers and commitments

Clause 39 makes amendments to the Air Force (Constitution) Act 1917 in regard to the reporting of Air Force numbers. Clause 40 removes those elements of the RFA96 that require the MOD to report the numbers of the Reserve forces and the numbers in the Full Time Reserve Service, Additional Duties Commitment, High Readiness Reserve and the Sponsored Reserve.

There is no explicit requirement in law to report regular numbers for the Army and Navy, but it has been taken as part of Parliamentary control to do so. As Defence needs full flexibility across all three Services, the MOD wants to remove any explicit requirement that requires the numbers to be broken down in a specific way. Defence increasingly requires flexibility in the workforce to respond to threats and challenges, particularly in the use of the reserves - as skills such as Cyber, AI and Information Warfare largely sit in the reserves. This also supports the “whole of society” narrative that there is one armed force, and that it does not matter whether people serve as a regular or a reserve.

MOD will continue to produce a VOTES A document that seeks authority from Parliament for the overall maximum size of the three Services, combining regular and reserve numbers and removing the limits on the numbers that MOD can use for specific types of reserve service.

VISITING FORCES

Clause 41 – Prohibition on sentences of death

Clause 42 - Evidence of act being carried out in course of duty

These clauses seek to amend the Visiting Forces Act 1952 (VFA) in line with the NATO Status of Forces Agreement 1951 (SOFA) to address inconsistencies identified in 2022.

Clause 41 amends s.2(4) of the VFA to make clear that a visiting force service court cannot pass a capital punishment sentence in proceedings conducted in the UK. This amendment will remove the possibility, implicit in VFA 1952, that a visiting force could ask for an alleged offender (who is a member of their visiting force) to be transferred into its custody and conduct service court proceedings in the UK that could lead to the death penalty being issued. There is no basis in the NATO SOFA 1951 to refuse such a request, but doing so would potentially be in breach of our obligations under the ECHR.

Clause 42 amends s.11 of the VFA to empower the Secretary of State, in the event of a dispute, to determine conclusively as a statement of fact whether the visiting force member was on or off duty, at the time that the alleged offence was committed. The new mechanism would involve taking representations from the Visiting Force, and the relevant UK prosecuting authority on the on/off duty point, before making that determination, meeting the NATO SOFA obligation to have direct negotiations with the Sending State.

The amendments are in line with the UK's international obligations under NATO SOFA and reinforce the UK's status as a trusted NATO partner and role model in the Alliance. It is particularly important given our interests in ensuring our own people are treated in accordance with the NATO SOFA when stationed abroad.

MINISTRY OF DEFENCE POLICE

Clause 43 - Governance and administration of Ministry of Defence Police

The Ministry of Defence Police Act 1987 contains provisions for the Secretary of State to make regulations for certain specific reasons e.g. regulations relating to disciplinary matters, but does not contain a power to make more general regulations for the wider governance, administration and conditions of service of the force. This contrasts with powers available to the Home Secretary to make regulations for Home Office Police forces provided in s.50 of the Police Act 1996, regarding regulations as to the governance, administration and conditions of service of police forces. This measure introduces equivalent powers for the Secretary of State for Defence. The introduction of this measure will facilitate the introduction of new regulations intended to improve the governance of police forces but where a power to introduce those regulations is not currently provided for in the Ministry of Defence Police Act 1987.

Clause 44 - Cross-border enforcement powers of Ministry of Defence Police

Members of the MDP have jurisdiction across the whole of the UK and are able to exercise the powers of a local constable. It had been thought that this was sufficient for them to execute an arrest warrant issued in another part of the UK, as well as exercise the powers of arrest, using the cross-border powers given to their territorial counterparts. However, changes to Part 10 of the Criminal Justice and Public Order Act 1994 (cross-border enforcement) in relation to the British Transport Police and the Civil Nuclear Constabulary, cast doubts on the MDP's position.

This clause therefore amends Part 10 of the Criminal Justice and Public Order Act 1994 (cross-border enforcement) to include MDP officers so that they can exercise cross border powers in all three jurisdictions (E&W, Scotland and NI).

Clause 45 - Property in possession of Ministry of Defence Police

This clause amends the Police (Property) Act 1897 to enable the MDP to dispose of property in their possession in accordance with regulations made under section 2 of that Act. It means that the MDP will be able to either sell the property or retain it for use for police purposes, and do not need to rely on section 1 of the Act (applications to a magistrates' court) in such cases.

MISCELLANEOUS PROVISIONS

Clause 46 - Detention etc of persons overseas in cases of mental disorder

Schedule 7 - Detention etc of persons overseas in cases of mental disorder

There is currently no appropriate legislative framework to detain service personnel (or civilian personnel subject to service discipline) when their mental health poses significant risk to themselves or others whilst deployed overseas. Although a rare event, the requirement to manage these situations generates legal and presentational risk for Defence and professional staffs including healthcare, police and chain of command, and does not afford unwell personnel the protection of appropriate legislation.

Schedule 12 of AFA06 was intended to create legal powers to detain Service personnel (and others subject to Service discipline) deployed overseas on mental health grounds and return them to the UK. However, it was found to be not fit for purpose (because its drafting is premised on the existence of overseas service hospitals, of which none remain) and it was never commenced.

The clause (and the schedule) therefore amends and updates Schedule 12 to allow for the temporary detention of persons subject to service law and civilians subject to service discipline who experience a mental health crisis whilst deployed overseas in a 'suitable' location, pending their removal to the UK for appropriate treatment in the civilian mental health system.

Clause 47 - Defence functions of the Oil and Pipelines Agency

The Oil & Pipelines Agency (OPA) was established to support UK Defence operations at a time when hydrocarbons were the main source of operational energy. In the decades that have followed, the UK's energy landscape has shifted considerably. National commitments to reduce carbon emissions and achieve "net zero" by 2050 have driven changes in the country's energy strategy. As a result, Defence operations will become increasingly reliant on a broader mix of energy sources; these include, but are not limited to, biofuels, synthetic fuels, natural gas and renewable natural gas, hydrogen, electricity, sustainable aviation fuels, zero-carbon energy carrier and fuel, and other low-carbon alternatives.

The current Oil & Pipelines Act 1985 restricts the Agency to managing “Petroleum” products and services and will restrict the Agency’s ability to serve Defence if not amended.

To ensure the OPA remains fit for purpose, the clause amends the Oil & Pipelines Act 1985 by replacing “Petroleum” with “Energy”, broadening asset definitions to include a range of energy infrastructure and materials, and permitting the Agency to buy, sell, or manage energy and chemical products.

Clause 48 - Protection of military remains

It is Government policy to ensure historic military wrecks are offered appropriate protection and management. This is administered via the Protection of Military Remains Act 1986 (PMRA 1986) which protects vessels that sank after 4 August 1914 through specific designation by means of a Statutory Instrument. Military shipwrecks that are 200 years old can be designated as a “Controlled Site”, however, the Act does not extend to vessels older than this.

Since PMRA 1986, significant advances in recreational and technical diving mean that wrecks previously out of reach are now accessible. This leaves the sites, which are often the last resting places of Service personnel, vulnerable to unauthorised salvage and disturbance. The amendments seek to prevent that disturbance by improving protection for vessels.

The clause amends Section 1 of PMRA 1986 to automatically provide protection for all Royal Navy military shipwrecks which are the last resting places of our Service personnel as “Protected Places” and removes the time limits for both “Protected Places” and “Controlled Sites”. This aligns with the protection already afforded to aircraft within PMRA 1986. Removing the restrictive time limits for designation, i.e. the 4 August 1914 cut off point and removing the 200 years age limit, will allow for older wrecks to be protected.

These amendments will significantly improve the way our underwater cultural heritage is protected.

Clause 49 - Police and Criminal Evidence (Northern Ireland) Order 1989: updating

This clause makes minor amendments to PACE N.I. where there are references to the UK Armed Forces, so as to align it with the changes made to PACE England & Wales by AFA06.

Clause 50 - Coroners and Justice Act 2009: correcting amendment

In AFA21, the Coroners and Justice Act 2009, Schedule 7 (Allowances, Fees and Expenses), Part 2 (Allowances payable to witnesses), paragraph 5(2)(a) was amended to include reference to the new tri-service serious crime unit. However, the inserted text did not correct the omission of the word “service” before “police force”. This clause inserts the missing word for clarity.